

REMARKS

Status of Claims

Claims 1-51 are pending. Claims 5-24, 30, 31, 33, 34, 37-41, 43, 44, and 49-51 have been withdrawn from consideration. Claims 1-4, 25-29, 32, 35, 36, 42, and 45-48 have been rejected. Claims 32, 45, and 47 have been amended. Claims 1-4, 25-29, 32, 35, 36, 42, and 45-48 remain for consideration upon entry of the present Amendment. No new matter has been added.

Drawing Objections

Applicants acknowledge the Examiner's approval of the substitute drawing sheets filed in the previous Office Action response. Replacement drawing sheets are enclosed herewith under cover of a separate Letter to the Official Draftsperson.

Claim Objections

Claims 32, 35, 36, and 42 have been objected to because of an alleged improper use of the term "being for." Claim 32 has accordingly been amended.

Claim Rejections – 35 U.S.C. §112, second paragraph

Claims 1-4, 25-29, 32, 35, 36, 42, and 45-48 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

The Examiner alleges that in claim 1, the term "body" is vague as to what structure it refers, because the term is not defined in the specification. Applicants assert that the term "body," as is recited in claim 1, is sufficiently defined on page 5, lines 8-14, of the specification.

The Examiner alleges that in claim 32, the term "handle" is vague as to what structure it refers, because the term is not defined in the specification. Applicants assert that the term "handle," as is recited in claim 32, is sufficiently defined on page 9, lines 15-18, of the specification.

The Examiner alleges that in claim 45, the term "dispenser" is vague as to what structure it refers, because the term is not defined in the specification. Applicants assert that the term "dispenser," as is recited in claim 45, is sufficiently defined on page 14, lines 13-16, of the specification. Applicants have, furthermore, amended claim 45 as per the Examiner's suggestions.

Claim 47 has also been amended in accordance with the Examiner's suggestions.

Claim Rejections – 35 U.S.C. §102

Claims 1-4, 25-28, 32, 35, and 36 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,037,588 to Pica (hereinafter "Pica").

Pica discloses a safety razor having a hollow handle 5, the lower end being provided with a plug 6 having a partial bore 7 that terminates in diametrically opposite outwardly directed bores 8 which are surrounded by an outwardly flared guard 9. (Page 1, column 2, lines 29-34). A reciprocating plunger 20 is provided in the handle 5. The reciprocating plunger 20 includes an operating rod 22 having an end portion 21. The opposite end of the operating rod 22 includes an operating member 24 to allow the plunger 20 to be reciprocated to force liquid through the handle 5 and through diverging jets 8. The cap [operating] member 24 forms a closure for the open end of the tubular handle 5 to prevent the discharge of liquid from the handle 5. (Page 1, column 2, line 52 to page 2, column 1, line 11).

Pica fails to disclose, teach, or suggest a storage reservoir substantially enclosed by the upper and lower ends and the one or more side walls of the body, as is recited in claim 1. In the claimed invention, the lower end of the body encloses the storage reservoir, whereas in the Pica reference a cap member of a reciprocating plunger forms a closure at the open end of a tubular handle. Applicants submit that a storage reservoir that is substantially enclosed by a lower end of a body, as is claimed, is patentably distinct from a handle in which a cap member of a reciprocating plunger forms a closure for the open end of a tubular handle, as in Pica.

To anticipate a claim under 35 U.S.C. §102, a single reference must disclose each and every element of the claimed invention. *Lewmar Marine v. Bariant Inc.*, 3 USPQ2d 1766 (Fed. Cir. 1987). Absence from the reference of any claimed element negates

anticipation. *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). Because Pica fails to disclose, teach, or suggest a storage reservoir substantially enclosed by the upper and lower ends and the one or more side walls of the body, claim 1 is not anticipated by the Pica reference. For at least this reason, claim 1 is allowable.

Pica also fails to disclose, teach, or suggest a handle having a substantially enclosed storage reservoir between the upper and lower ends, as is recited in claim 32. In the Pica device, liquid is “stored” during use of the device insofar as the bottom end of the handle in which the liquid is held is blocked by a reciprocating plunger that extends from the handle and that provides the driving force for liquid to be dispensed from the handle. Because the operating rod extends substantially throughout the entire length of the handle when the cap member 24 “forms a closure for the open end of the tubular handle to prevent the discharge of any liquid...,” the handle is substantially empty when the device is in the “storage” mode, and, therefore, there is no storage of liquid. Applicants submit that a handle having a substantially enclosed storage reservoir is patentably distinct from a liquid-holding handle in which the cap member 24 “forms a closure for the open end of the tubular handle to prevent the discharge of any liquid...” when the handle is empty, as in Pica.

As stated above, to anticipate a claim under 35 U.S.C. §102, a single reference must disclose each and every element of the claimed invention. *Lewmar Marine v. Barient Inc.* Absence from the reference of any claimed element negates anticipation. *Kloster Speedsteel AB v. Crucible Inc.* Because Pica fails to disclose, teach, or suggest a handle having a substantially enclosed storage reservoir between the upper and lower ends, claim 32 is not anticipated by the Pica reference. For at least this reason, claim 32 is allowable.

Pica also fails to disclose, teach, or suggest the storage reservoir being surrounded by the lower end and side walls of the dispenser, as is recited in claim 45. As stated above, because the operating rod extends substantially throughout the entire length of the handle when the cap member 24 closes the open end of the tubular handle to prevent the discharge of any liquid, the handle is substantially empty when the device is in the “storage” mode. Thus, the portion of the handle of the Pica invention in which liquid is “stored” is not surrounded by the *lower* end of the dispenser, as Applicants claim, but is

surrounded by the walls of the *upper* end of the handle. Accordingly, Applicants submit that a storage reservoir being surrounded by the lower end and side walls of the dispenser, as is recited in claim 45, is patentably distinct from the Pica invention in which the upper end of the handle surrounds a “storage” area.

As stated above, to anticipate a claim under 35 U.S.C. §102, a single reference must disclose each and every element of the claimed invention. *Lewmar Marine v. Barient Inc.* Absence from the reference of any claimed element negates anticipation. *Kloster Speedsteel AB v. Crucible Inc.* Because Pica fails to disclose, teach, or suggest the storage reservoir being surrounded by the *lower* end and side walls of the dispenser, claim 45 is not anticipated by the Pica reference. For at least this reason, claim 45 is allowable.

Dependent claims, by definition, add limitations that further define the subject matter of the independent claims from which they depend. Because claims 2-4 and 25-29 depend from claim 1, and because claim 1 is believed to be allowable for at least the reason presented above, claims 2-4 and 25-29, because they add limitations that further define the subject matter of independent claim 1, are allowable. Furthermore, because claims 35, 36, and 42 depend from claim 32, and because claim 32 is believed to be allowable for at least the reason presented above, claims 35, 36, and 42, because they add limitations that further define the subject matter of independent claim 32, are allowable. Moreover, because claims 46-48 depend from claim 45, and because claim 45 is believed to be allowable for at least the reason presented above, claims 46-48, because they add limitations that further define the subject matter of independent claim 45, are allowable.

Claim Rejections – 35 U.S.C. §103(a)

Claims 29 and 45-48 have been rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Pica.

The teachings of Pica are presented above.

Pica fails to disclose, teach, or suggest the storage reservoir being surrounded by the lower end and side walls of the dispenser, as is recited in claim 45. As stated above, because the operating rod extends substantially throughout the entire length of the handle when the cap member 24 closes the open end of the tubular handle to prevent the

discharge of any liquid, the handle is substantially empty when the device is in the “storage” mode. Thus, the portion of the handle of the Pica invention in which liquid is “stored” is not surrounded by the *lower* end of the dispenser, as Applicants claim, but is surrounded by the walls of the *upper* end of the handle. Accordingly, Applicants submit that a storage reservoir being surrounded by the *lower* end and side walls of the dispenser, as is recited in claim 45, is patentably distinct from the Pica invention in which the upper end of the handle surrounds a “storage” area.

To establish a *prima facie* case of obviousness for a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Because Pica fails to disclose, teach, or suggest what Applicants claim in their claim 45, viz., the storage reservoir being surrounded by the lower end and side walls of the dispenser, Pica fails to teach all of the claim limitations of Applicants’ invention. Consequently, because not all of the claim limitations are taught by the cited reference, Applicants’ claim 45 is necessarily non-obvious.

Because claims 46-48 depend from claim 45, and because claims that depend from a claim that are non-obvious are themselves necessarily non-obvious, claims 46-48 are necessarily non-obvious. Applicants, therefore, respectfully submit that claims 46-48 are allowable.

Furthermore, claims that are novel are necessarily non-obvious. Because claim 1 is asserted to be novel for the reasons presented above, claim 1 is asserted to be non-obvious. Because claim 29 depends from non-obvious claim 1, and because claims that depend from a claim that are non-obvious are themselves necessarily non-obvious, claim 29 is necessarily non-obvious. Applicants, therefore, respectfully submit that claim 29 is allowable.

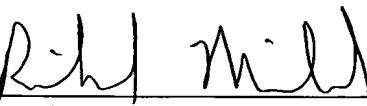
Conclusion

Applicants believe that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein are allowable to Applicants. In view of the foregoing points that distinguish Applicants’ invention from those of the prior art and render Applicants’ invention novel and non-obvious, Applicants respectfully request that

If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is invited to telephone the undersigned.

Applicants believe no fees are due, however, if fees are incurred with respect to this Amendment, they may be charged to Deposit Account No. 13-0235 maintained by Applicants' attorneys.

Respectfully submitted,

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